

June 7, 2005

MEMORANDUM

TO: Early Childhood Interagency Coordinating Council Members

FROM: Terry Rohren, ^{TR}Support Staff/Facilitator of the ECICC

RE: Legislative Process at State and Federal Level

At the May 13, 2005 meeting of the Early Childhood Interagency Coordinating Council you requested that we provide each of you with information on the state and federal legislative process.

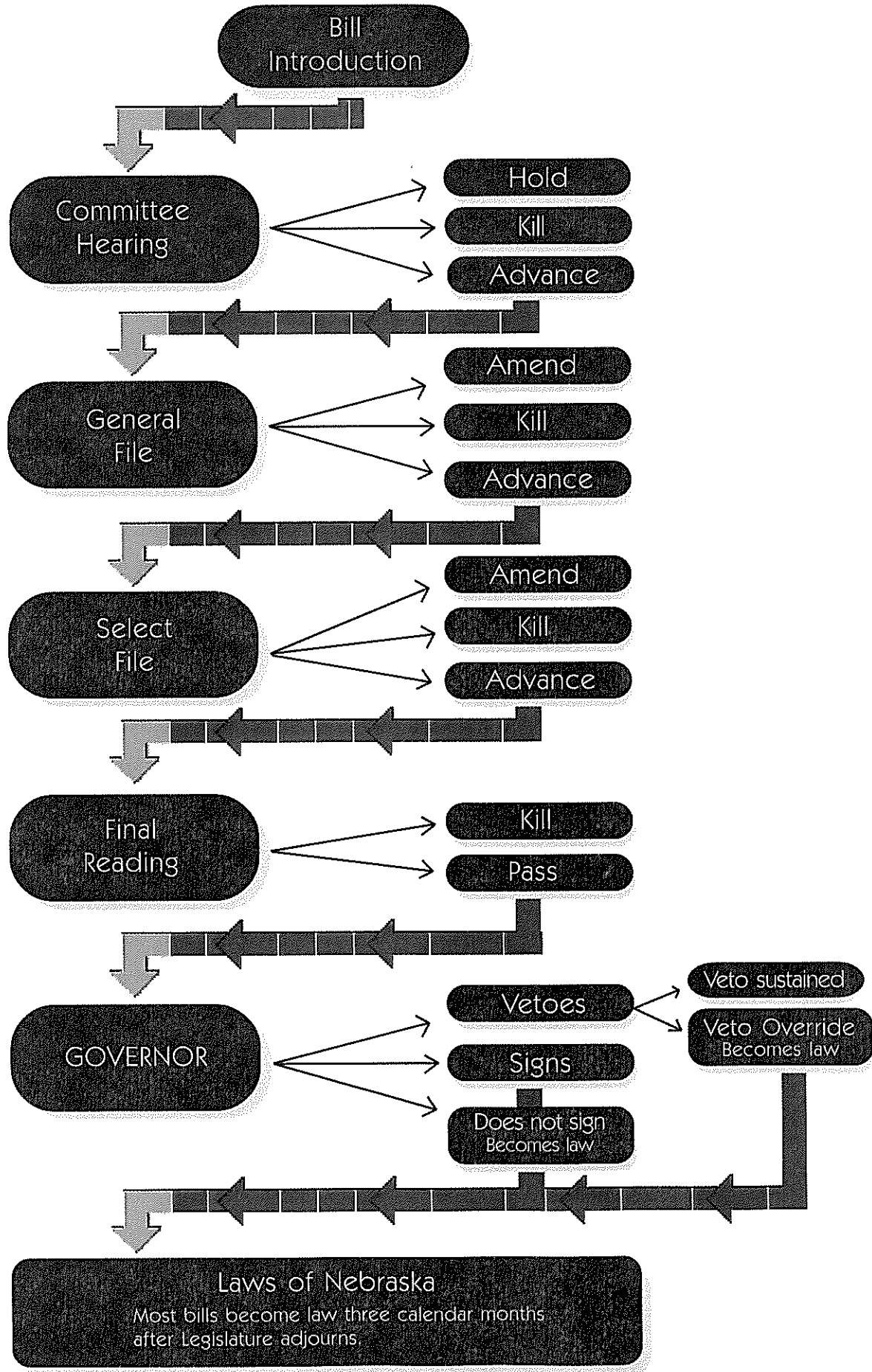
Enclosed in this email is:

1. A summary document of the Nebraska Lawmaking Process for the Unicameral.
2. A summary document of the federal legislative process for the U. S. Senate. The process would be similar for the U. S. House of Representatives.

Hopefully, you will find the documents provide you with a quick overview of the information you need to track and understand the state and federal legislative process.

Please let me know if I can provide you with any other information.

Lawmaking Process





Lawmaking in the Unicameral

An idea...

The lawmaking process in Nebraska officially begins when a senator or a committee introduces a bill into the Legislature, which convenes each January. But the process actually begins much earlier — when a senator first begins to formulate ideas for new laws. An idea for a new law may be suggested by anyone: concerned citizens, special interest groups, state agencies or the governor. The idea must be introduced by a senator or committee to be formally considered by the Legislature. Committees debate and propose amendments to bills, and the full Legislature has an opportunity to debate each bill at least two times before its final passage. Senators may propose amendments to alter the bill as it moves through the legislative process.

Here are the steps a bill must take before becoming a Nebraska state law:

I. Research

First, a senator and his or her staff research a problem and study possible legislative remedies. A senator may introduce a bill to create a new law or to repeal or change an existing law. Legislators have staff available to them to help with their research projects. Much of the research is done during the period between sessions called the interim. During this time, legislative committees study a variety of issues that have been outlined in interim study resolutions passed by the Legislature.

II. Drafting

A senator brings his or her idea for a new law to a bill drafter, who works with the senator to transform the idea into the proper legal form for a bill. Unlike some states, bills introduced in Nebraska may contain only one subject.

III. Introduction

Most bills are introduced during the first 10 days of the legislative session, which begins each January. In order to introduce a bill, a senator files it with the clerk of the Legislature. The clerk reads the title of the bill into the

record, assigns it a number and prints copies of it for public and legislative use.

IV. Fiscal Note

The Legislative Fiscal Office prepares budget statements estimating the anticipated change in state, county, or municipal expenses or revenue under the provisions of each bill. These statements are called fiscal notes. Each fiscal note contains three estimates. One estimate is calculated by the fiscal office staff; another is prepared by the governor's budget office; and a third is prepared by the affected state agency. In addition, the fiscal office prepares appropriation bills ("A" bills), which accompany bills that have a fiscal impact.

V. Committee Hearing

With the exception of a few technical bills, most bills introduced into the Legislature must receive a public hearing by a legislative committee. A nine-member Reference Committee determines which bills will be heard by each of 14 standing committees. At hearings, citizens have a chance to express their opinions to committee members. Testimony is recorded, transcribed and made part of the official committee record. After the hearing, committees may vote to send the bill to General File with or without amendments, indefinitely postpone (kill) the bill or take no action on it.

VI. General File

General File is the first time the full Legislature has the opportunity to debate and vote on bills. At this stage, senators consider amendments, which may be proposed by committees and by individual senators. Many people consider General File to be the most crucial stage of the legislative process because it is where most compromises are worked out through debate and amendment. It takes a majority vote of the Legislature (25 votes) to adopt amendments, and to move a bill from General File to the next stage of consideration.

VII. Enrollment and Review

Commonly referred to as “E&R,” enrollment and review is a process by which previously adopted amendments are incorporated into a bill, and the bill is checked for technical and grammatical accuracy.

VIII. Select File

Select File is the second debating and voting stage. This step allows another opportunity for amendment, compromise and reflection. Bills on Select File may be amended, returned to committee, indefinitely postponed or advanced to the next stage. After Select File, bills are sent to E&R again to be rechecked. Bills then are reprinted for Final Reading.

IX. Final Reading

The Nebraska Constitution requires that before final passage, all bills must be read aloud in their entirety by the clerk of the Legislature, unless three-fifths (30 members) of the Legislature votes to waive the requirement.

A bill may not be amended or debated on Final Reading, but it may be returned to Select File for a specific amendment. Bills may not be voted on for final passage until at least five legislative days after the bill is introduced, and one legislative day after it is placed on Final Reading.

A proposed constitutional amendment requires a three-fifths vote of the elected members (30) to place it on the general election ballot and a four-fifths vote (40) to place it on a primary or special election ballot. All other bills without the emergency clause require a simple majority vote before going to the governor. A bill with an emergency clause (see “Effective Date” below) requires a vote of two-thirds (33 members) of the Legislature.

X. Governor

After the Legislature passes a bill on Final Reading, it goes to the governor for consideration. The governor has five days, excluding Sundays, to decide what to do with a bill. If the governor signs a bill or declines to act on it, the bill becomes a state law. The governor may veto a bill, and has the authority to strike specific budget appropriations (line-item veto). The Legislature may override any gubernatorial veto, although it takes a vote of 30 senators to do so.

XI. Effective Date

Most bills passed and approved by the governor become law three calendar months after the Legislature adjourns. However, bills may take effect before that date if they contain an emergency clause or a specified operative date.

... becomes a law.

Legislative Divisions

I. Clerk of the Legislature

The Clerk of the Legislature, elected by the Legislature, assists in the administrative operation of the Legislature. The clerk oversees the preservation of daily floor debate and the official papers and communications of the Legislature. The clerk publishes the daily and permanent Legislative Journal, compiles the Laws of Nebraska after each session, handles lobby registration, distributes bills to senators and the public, supervises sessional employees and oversees the use of legislative space.

II. Revisor of Statutes

The Revisor of Statutes is also the bill drafter. The revisor prepares all bills and most amendments and is responsible for form and craftsmanship. Following each legislative session, the Revisor of Statutes incorporates all enacted legislation into the Nebraska Statutes.

III. Legislative Fiscal Analyst

The Legislative Fiscal Analyst provides fiscal and

management information and assistance to the Legislature and the Appropriations Committee. The work involves examining the state agencies' management and finances to improve efficiency and services.

IV. Director of Research

The Director of Research is selected by the Legislative Council to assist with legislative studies and research. In addition, the Director of Research is responsible for maintaining a reference library where a collection of materials is maintained for use by legislators and staff, and he or she conducts reviews of agencies and programs pursuant to the Legislative Performance Audit Act.

V. Ombudsman

The Office of the Ombudsman (technically known as the Office of Public Counsel) is an independent governmental office designed to receive and investigate miscellaneous complaints relating to administrative agencies of state government.

United States Senate

Legislative Process: How a Senate Bill Becomes a Law

<u>Bill Status</u>	<u>People Involved</u>	<u>Where</u>
Bill is drafted	Senator, Representative, White House, State Legislatures, Organizations, Scholars, Constituents.	Office, library, home
Bill is introduced by Senator	Senator by way of the Parliamentarian	Senate Chamber
If no objection heard, bill is considered read twice, and referred to the appropriate committee.	Parliamentarian on behalf of Presiding Officer	Senate Chamber
Bill is entered on the Senate Journal	Journal Clerk	Senate Chamber
Bill is given a number	Bill Clerk	Bill Clerk's Office
Bill is entered into ledgers and the Legislative Information System and marked up for printing	Bill Clerk	Bill Clerk's Office
Bill is delivered to Government Printing Office	Bill Clerk	Messenger picks up
Printed Bill is made available in Senate and House document rooms, and electronically on the Legislative Information System and on www.senate.gov	Government Printing Office	Government Printing Office
Printed Bill is delivered to appropriate committee	Government Printing Office	
Committee Action (see attachment #1)		
Bill is placed on the Legislative Calendar	Legislative Clerk	Senate Chamber
Unanimous consent requested to lay bill before the Senate	Majority Leader	Senate Chamber

If consent is granted, the Presiding Officer instructs the Legislative Clerk to report the title	Legislative Clerk on behalf of the Presiding Officer	Senate Chamber
Bill is debated and Amendment(s) are submitted or proposed	Senator	Senate Chamber
The Amending Process (see attachment #2)		
The Presiding Officer instructs the Legislative Clerk to read the title a third and final time	Legislative Clerk on behalf of Presiding Officer	Senate Chamber
Call for a vote (See attachment #3)	Senator	Senate Chamber
Bill voted on by roll call vote, voice vote, unanimous consent, or division	Senators	Senate Chamber
If bill is passed the final copy is prepared	Enrolling Clerk	Enrolling Clerk's office
Engrossed bill signed	Secretary of the Senate	Secretary of the Senate's office
Delivered to the House of Representatives	Enrolling Clerk	House of Representatives Chamber
House Action	House of Representatives	House Chamber and House Committees
Bill is passed by the House of Representatives and delivered back to the Senate	House Reading Clerk	House Chamber
If not amended by House, bill is enrolled in the Senate	Enrolling Clerk	Senate Chamber
Enrolled bill is signed (see attachment #5)	President Pro Tempore of the Senate and the Speaker of the House	U.S. Capitol
Bill is delivered to White House	Overseen by Secretary of the Senate	
The bill is signed into law or vetoed (see attachment #6)	President of the United States	White House

OR bill is amended by House of Representatives	Representative	House Chamber
Amended bill is delivered to the Senate	House Reading Clerk	Senate Chamber
Senate may disagree to House Amendment and requests a conference	Senators	Senate Chamber
Conference Committee Action (see attachment #4)		
If the bill is agreed to, it is enrolled (see attachment #5)	Enrolling Clerk	
Enrolled bill is signed	President Pro Tempore of the Senate and Speaker of the House	U.S. Capitol
Bill is delivered to White House	Secretary of the Senate oversees delivery	
Bill is signed into law or vetoed (see attachment #6)	President of the United States	White House

Attachment #1

COMMITTEE ACTION

Legislation is referred to a committee after introduction, according to its subject matter. Most commonly, a committee will further refer the legislation to one of its subcommittees. The subcommittee may request reports from government agencies or departments, hold hearings, mark up the bill (adopt revisions), and report the legislation to the full committee. The full committee may take similar action, with or without prior subcommittee consideration, and report the legislation to its full chamber.

Committee Hearings

Regardless of the type of hearing, or whether a hearing is held in Washington or elsewhere, hearings share common aspects of planning and preparation. Senate standing committees and subcommittees are authorized to meet and to hold hearings when the Senate is in session, and when it has recessed or adjourned. To minimize conflicts with floor activities, a committee may not meet, without unanimous consent, on any day after the Senate has been in session for two hours, or after 2:00 p.m. when the Senate is in session.

Senate Rule XXVI requires each committee (except Appropriations and Budget) to give at least one week's notice of the date, place, and subject of a hearing; however, a committee may hold a hearing with less than one week's notice if it determines that there is "good cause." These notices appear in the Daily Digest section of the *Congressional Record*. While the Senate rule requires a one week public notice, a separate standing order of the Senate requires each Senate committee to notify the Daily Digest Office as soon as a hearing is scheduled [S.Res. 4, 95th Congress]. Hearings are generally open to the public, but can be closed by a committee roll-call vote in open session if the subject matter falls within specific categories enumerated in Senate rules.

Although a committee chair determines the agenda and selects witnesses, the minority typically works informally with the majority to invite witnesses representing its views. Senate rules allow the minority-party members of a committee (except Appropriations) to call witnesses of their choice on at least one day of a hearing. Witnesses before Senate committees generally must provide the committee with a copy of their written testimony at least one day before their oral testimony, with specifics set out in individual committee rules. It is common practice to request witnesses to limit their oral remarks to a brief summary of the written testimony.

A question-and-answer period generally follows a witness's testimony. Each committee determines the order in which Senators question witnesses. Although Senate rules do not restrict the length of time each Senator may question a witness, several committees have adopted such rules. Some committees also authorize committee staff to question witnesses.

Committee Markup

A markup is a meeting of the committee to debate and consider amendments to a measure under consideration. The markup determines whether the measure pending before a committee will be recommended to the full Senate, and whether it should be amended in any substantive way.

Procedures in markup for the most part reflect procedures used on the Senate floor, possibly modified by an individual committee's rules. The process begins when the chair of the committee schedules and sets the agenda for the markup. In leading a markup, the chair has broad discretion choosing the legislative vehicle and presenting it for consideration and amendment. The measure that is marked up may be one that was introduced in the Senate, or received from the House and referred to the committee. Alternatively the chair may choose to consider the text of a draft measure that has not been introduced, such as a subcommittee-reported version or a chairman's mark. In still other cases, the markup vehicle may be placed before the committee as an "amendment in the nature of a substitute" for the measure or text initially referred to it.

Reporting Legislation

When a committee concludes its markup, any committee member may move to order the measure reported to the Senate. A committee has several options for the form in which the a measure is ordered reported. It may be reported with no changes, with amendments to various sections adopted in markup, or with one amendment in the nature of a substitute. In addition, a Senate committee is authorized to report an original bill that embodies a text decided upon in markup.

Senate rules require the physical presence of a majority of the committee in order to report a measure. Absent Senators may vote by proxy on reporting a measure unless a committee has adopted a rule to the contrary, but such proxy votes may not effect the outcome of a vote to report a measure, and proxies may not be counted to determine a quorum.

Following a committee's vote to order a measure reported, it is the duty of the committee's chairman to report the measure promptly to the Senate. When a committee reports a measure, it generally prepares an accompanying written report that describes the purposes and provisions of the measure. If a report is submitted, Senate rules and statutes require the inclusion of such components as records of roll-call votes cast in committee, cost estimates, a statement of regulatory impact, and the specific changes the legislation would make to existing law. Committee members are also entitled to at least three days to prepare supplementary, minority, or additional views for inclusion in the report.

Attachment #2

The Amending Process

The Amending Process

Floor consideration of a measure usually begins with opening statements by the floor managers, and often by other Senators. The managers usually are the chair and ranking minority member of the reporting committee or pertinent subcommittee.

The first amendments usually to be considered are those recommended by the reporting committee. If the committee has proposed many amendments, the manager often obtains unanimous consent that these amendments be adopted, but that all provisions of the measure as amended remain open to further amendment. After committee amendments are disposed of, amendments may be offered to any part of the measure in any order. If the committee recommends a substitute for the full text of the measure, the substitute normally remains open to amendment throughout its consideration. The Senate may dispose of each amendment either by voting on it directly or by voting to table it. The motion to table cannot be debated; and, if the Senate agrees to it, the *effect* is the same as a vote to defeat the amendment. If the Senate defeats the motion, however, debate on the amendment may resume.

While an amendment is pending, Senators may propose amendments to it (called second-degree amendments) and to the part of the measure the amendment would change. The Senate votes on each of these amendments before it votes on the first-degree amendment (the amendment to the measure). Many additional complications exist. When a complete substitute for a measure is pending, for example, Senators can propose six or more first- and second-degree amendments to the substitute and the measure before any votes must occur.

If an amendment is considered under a time limitation, Senators may make no motions or points of order, or propose other amendments, until all the time for debating the amendment has been used or yielded back. Sometimes, however, the Senate unanimously consents to lay aside pending amendments temporarily in order to consider another amendment to the measure.

The amending process continues until the Senate orders the bill engrossed and read a third time, which precludes further amendment. Then the Senate votes on final passage.

Attachment #3
Voting

Voting

Article. I, sec. 5, paragraph 3 of the Constitution provides that one-fifth of those present (11 Senators, if no more than a quorum is present) can order the yeas and nays - also known as a rollcall vote or a recorded vote. If a Senator asks for the yeas and nays on a pending question, and the Senate orders them, it does not mean that a vote will occur immediately. Instead ordering the yeas and nays means that whenever the vote does occur, it will be by roll call and will be recorded in the Journal. Otherwise, votes can be taken by voice vote, unanimous consent, or division.

Attachment #4

Conference Committees

A bill cannot become a law of the land until it has been approved in identical form by both houses of Congress. Once the Senate amends and agrees to a bill that the House already has passed -- or the House amends and passes a Senate bill -- the two houses may begin to resolve their legislative differences by way of a conference committee or through an exchange of amendments between the houses.

Conference Committees

If the Senate does not accept the House's position, one of the chambers may propose creation of a conference committee to negotiate and resolve the matters in disagreement between the two chambers. Typically, the Senate gets to conference with the House by adopting this standard motion: "Mr. President, I move that the Senate insist on its amendment(s) (or "disagree to the House amendment(s)" to the Senate-passed measure), request a conference with the House on the disagreeing votes thereon, and that the Chair be authorized to appoint conferees." This triple motion rolled into one -- to insist (or disagree), request, and appoint -- is commonly agreed to by unanimous consent. The presiding officer formally appoints the Senate's conferees. (The Speaker names the House conferees.) Conferees are traditionally drawn from the committee of jurisdiction, but conferees representing other Senate interests may also be appointed.

There are no formal rules that outline how conference meetings are to be organized. Routinely, the principals from each chamber or their respective staffs conduct pre-conference meetings so as to expedite the bargaining process when the conference formally convenes. Informal practice also determines who will be the overall conference chair (each chamber has its own leader in conference). Rotation of the chairmanship between the chambers is usually the practice when matched pairs of panels (the tax or appropriations panels, for example) convene in conference regularly. For standing committees that seldom meet in conference, the choice of who will chair the conference is generally resolved by the conference leaders from each chamber. The decision on when and where to meet and for how long are a few prerogatives of the chair, who consults on these matters with his or her counterpart from the other body.

Once the two chambers go to conference, the respective House and Senate conferees bargain and negotiate to resolve the matters in bicameral disagreement. Resolution is embodied in a conference report, signed by a majority of Senate conferees and House conferees. The conference report must be agreed to by both chambers before it is cleared for presidential consideration. In the Senate, conference reports are usually brought up by unanimous consent at a time agreed to by the party leaders and floor managers. Because conference reports are privileged, if any Senator objects to the unanimous consent request, a nondebatable motion can be made to take up the conference report. Approval of the conference report itself is subject to extended debate, but conference reports are not open to amendment.

Almost all of the most important measures are sent to conference, but these are only a minority of the bills that the two houses pass each year.

Attachment #5

Enrollment

Enrollment

After the Senate and House resolve all their disagreements concerning a bill or joint resolution, all the original papers are transmitted to the enrolling clerk of the originating chamber, who has the measure printed on parchment, certified by the chief officer of the originating chamber, and signed by the Speaker of the House and by either the Vice President (who is the President of the Senate) or the authorized presiding officer of the Senate. The enrolled bill then goes to the President for his approval or veto.

Attachment #6
Presidential Action

Presidential Action

Pursuant to Article 1, section 7 of the Constitution, "Every Bill, which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; . . . "

If the President approves and signs the measure within 10 days, it becomes law. The 10-day period begins on midnight of the day the President receives the measure, and Sundays are not counted. Thus, if the President were to receive an enrolled measure on Thursday, February 14th, the first day of the 10-day period would be Friday, February 15th; the last day would be Tuesday, February 26th.

If the President objects to a measure, he may veto it by returning it to its chamber of origin together with a statement of his objections, again within the same 10-day period. Unless both chambers subsequently vote by a 2/3 majority to override the veto, the measure does not become law.

If the President does not act on a measure-approving or vetoing it-within 10 days, the fate of the measure depends on whether Congress is in session. If Congress is in session, the bill becomes law without the President's approval. If Congress is not in session, the measure does not become law. Presidential inaction when Congress is not in session is known as a pocket veto. Congress has interpreted the use of the pocket veto to be limited to the final, so-called sine die adjournment of the originating chamber. The President's pocket veto authority is not definitively decided.